

COMMISSION ON STATE MANDATES

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June 11, 2003

Mr. Paul C. Minney
Spector, Middleton, Young, & Minney, LLP
7 Park Center Drive
Sacramento, CA 95825

And Affected State Agencies and Interested Parties (see attached mailing list)

RE: Proposed Parameters and Guidelines
School District Reorganization, 98-TC-24
Campbell Union High School District and San Luis Obispo
County Office of Education, Co-claimants
Education Code Sections 35704, 35705.5, and 35707
Statutes 1980, Chapter 1192 and Statutes 1994, Chapter 1186

Dear Mr. Minney:

The draft staff analysis and proposed parameters and guidelines are complete and enclosed for your review and comment.

Written Comments

Any party or interested person may file written comments on the draft staff analysis and proposed parameters and guidelines by **Friday, June 27, 2003**. You are advised that the Commission's regulations require comments filed with the Commission to be simultaneously served on other interested parties on the mailing list, and to be accompanied by a proof of service on those parties.

Commission Hearing

The hearing on this matter is set for Thursday, **July 31, 2003**, at 9:30 a.m. in Room 126 of the State Capitol, Sacramento, California. Please let us know in advance of the hearing if you or a representative of your agency will testify at the hearing, and if other witnesses will also appear.

Special Accommodations

For any special accommodations such as a sign language interpreter, an assistive listening device, materials in an alternative format, or any other accommodations, please contact the Commission Office at least five to seven *working* days prior to the meeting.

Please contact me at (916) 323-8211 with questions.

Sincerely,

SHIRLEY OPIE

Assistant Executive Director

Enclosure

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ITEM

**DRAFT STAFF ANALYSIS
CLAIMANT’S PROPOSED PARAMETERS AND GUIDELINES,
AS MODIFIED BY STAFF**

Education Code Sections 35704, 35705.5, and 35707

Statutes 1980, Chapter 1192

Statutes 1994, Chapter 1186

School District Reorganization

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School District Reorganization

EXECUTIVE SUMMARY

The Executive Summary will be included in the Final Staff Analysis.

CLAIMANT

Campbell Union High School District and San Luis Obispo County Office of Education,
Co-claimants

CHRONOLOGY

10/24/02	Commission on State Mandates (Commission) adopted Statement of Decision ¹
12/03/02	Claimant submitted proposed parameters and guidelines ²
01/03/03	The State Controller's Office (SCO) submitted comments ³
06/11/03	Commission issued draft staff analysis

SUMMARY OF THE MANDATE

The test claim arose from enactments of or amendments to the Education Code that added new duties for districts and/or county superintendents in petition verification, statistical compilation and reporting, petition description requirements, county committee report, average daily attendance and base revenue limit reporting requirements, and financial oversight duties of the county superintendent as part of school district reorganization procedures. The Commission found that Education Code sections 35704, 35705.5, and 35707 impose new activities upon county offices of education for certain activities related to school district reorganizations initiated by voters, landowners or district governing boards.⁴

STAFF ANALYSIS

Staff reviewed the claimant's proposal and the comments received. Staff made non-substantive, technical changes for purposes of clarification, consistency with language in parameters and guidelines adopted since January 2003, and conformity to the Statement of Decision and statutory language. Substantive changes are discussed below:

III. Period of Reimbursement

The claimant proposed a reimbursement period beginning July 1, 1998, for all costs incurred in compliance with the mandate. The test claim for this mandate was filed on June 21, 1999. Therefore, costs incurred for compliance with Statutes 1980, chapter 1192 and Statutes 1994, chapter 1186 are eligible for reimbursement on or after July 1, 1997. Staff corrected the year.

IV. Reimbursable Activities

In their letter dated January 3, 2003, the SCO requested that documentation requirements for filing reimbursable mandated cost claims be added. The SCO's concern is addressed by the changes staff made that align this section and following sections with standard language adopted by the Commission since January 2003, which includes documentation requirements. Only actual costs may be claimed and must be traceable and supported by source documents. Section VI. Records Retention defines records retention requirements and clarifies that records must be

¹ Exhibit A.

² Exhibit B.

³ Exhibit C.

⁴ The Commission found that the test claim legislation and regulations do not constitute a new program or higher level of service on school districts within the meaning of article XIII B, section 6 of the California Constitution.

maintained during the period a mandate is subject to audit, and once an audit is commenced, the records must be maintained until the final audit report is issued.

The claimant included “preparation of existing information for the petition description” as a reimbursable activity. The Statement of Decision states the following:

...[T]he information in section 35705.5 is available elsewhere (including the petition, the county superintendent of schools who serves as secretary to the county committee, the record of the county committee’s own actions regarding the issues, if the county committee chooses to provide plans and recommendations, or the application of provisions in code). But simply because the section 35705.5 information is available (pursuant to another statute, the petition, or decision of county committee) does not negate the new activity in providing it to the public. Even though most of the nine items in section 35705.5 are not required to be in the county committee’s plans and recommendations (except for the revenue limit per unit of ADA), they must be compiled and made available to the public and boards of the affected districts.⁵

Therefore, staff added language to clarify that the information to prepare the description of the petition is preexisting, and that the activities of analyzing, researching, or determining the information are not eligible for reimbursement.

The claimant proposed training as a reimbursable activity. Staff disagrees. The findings required to be made by the State Board of Education are specifically spelled out by statute and/or regulation. In addition, the committee has the expertise to answer the questions without additional training. Therefore, staff deleted training from the reimbursable activities.

STAFF RECOMMENDATION

Staff recommends that the Commission adopt the claimant’s proposed parameters and guidelines, as modified by Commission staff, beginning on page 5.

Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

⁵ Exhibit A, page ____.

CLAIMANT'S PROPOSED PARAMETERS AND GUIDELINES, AS MODIFIED BY STAFF

Education Code Sections 35704, 35705.5, and 35707

Statutes of 1980, Chapter 1192

Statutes of 1994, Chapter 1186

School District Reorganization

I. SUMMARY OF THE MANDATE

On October 24 2002, the Commission on State Mandates (Commission) adopted its Statement of Decision finding that Education Code sections 35704, 35705.5, and 35707 impose new activities upon county offices of education. The Commission further found that these activities represent new programs or higher levels of service for county offices of education within the meaning of article XIII B, section 6 of the California Constitution and impose costs mandated by the state pursuant to Government Code section 17514 for school district reorganizations initiated by voters, landowners or district governing boards.

The Commission approved this test claim for the following specific new activities:

A. Petition transmittal: pursuant to Education Code sections 35704 and 35707, subdivision (b), that require the county superintendent to transmit a reorganization petition to the county committee and State Board of Education (State Board). This requirement varies depending on the type of reorganization action because only the new activity, not required under the former codes, constitutes the higher level of service. The new activities are:

- (1) for new district formation, transmittal to the county committee;
- (2) for consolidation, i.e., formation of a new elementary, high school, community college or unified district by combining districts of the same kind, transmittal to both the State Board and a county committee;
- (3) for formation of a consolidated high school district, transmittal to the State Board;
- (4) for annexation, transmittal to the county committee and State Board;
- (5) for transfers of component elementary districts to high school districts, or component high school districts to community college districts, transmittal to the county committee;
- (6) for transfers of territory, transmittal to the State Board; and
- (7) for dissolutions of districts, transmittal to both the county committee and State Board.

B. Petition description: pursuant to Education Code section 35705.5, subdivision (b), that requires county committees and superintendents to make the petition description, as specified, available to the public and the school district governing boards affected by the petition.

C. Committee report: pursuant to Education Code section 35707, subdivision (a), that requires a report by the county committee to include specified items.

II. ELIGIBLE CLAIMANTS

Any county superintendent of schools or county office of education within the meaning of Government Code section 17519 that incurs increased costs because of this mandate is eligible to claim reimbursement.

III. PERIOD OF REIMBURSEMENT

Government Code section 17557 requires that a test claim must be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The test claim for this mandate was submitted on June 30, 1999, therefore all mandated costs incurred on or after July 1, 1997 are eligible for reimbursement.

Actual costs for one fiscal year shall be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to Government Code section 17561, subdivision (d)(1), all claims for reimbursement of initial years' costs shall be submitted within 120 days of release of claiming instructions by the State Controller.

If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed, except as otherwise provided for by Government Code section 17564.

IV. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct based upon personal knowledge," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant, the following activities are eligible for reimbursement for school district reorganizations initiated by voters or property owners (but not for those initiated by school district governing boards):

- A. Transmitting reorganization petitions by the county superintendent of schools to the county committee on school district reorganization and/or the State Board of Education, depending on the type of reorganization, as specified below (Ed. Code, § 35704.):
1. Reorganization petition proposing a new district formation: transmittal to the county committee on school district reorganization;
 2. Reorganization petition proposing a consolidation, i.e., formation of a new elementary, high school, or community college or unified district: transmittal to the county committee on school district reorganization and the State Board of Education;
 3. Reorganization petition proposing a formation of a consolidated high school district: transmittal to the State Board of Education;
 4. Reorganization petition proposing an annexation: transmittal to the county committee on school district reorganization and the State Board of Education;
 5. Reorganization petitions proposing a transfer of component elementary districts to high school districts or component high school districts to community college districts: transmittal to the county committee on school district reorganization;
 6. Reorganization petition proposing a transfer of territory: transmittal to the State Board of Education;
 7. Reorganization petition proposing a dissolution of a district: transmittal to the county committee on school district reorganization and the State Board of Education).

NOTE: Education Code section 35704 requirements to examine the petition for sufficiency and the signatures required by law are not eligible reimbursable activities.

- B. Preparing a description of the petition for school district reorganization, that includes the following items (Ed. Code, § 35705.5, subd. (b)):
1. The rights of the employees in the affected districts to continued employment.
 2. The revenue limit per unit of average daily attendance for each affected district and the effect of the petition, if approved, on such revenue limit.
 3. Whether the districts involved will be governed, in part, by provisions of a city charter and, if so, in what way.
 4. Whether the governing boards of any proposed new district will have five or seven members.
 5. A description of the territory or districts in which the election, if any, will be held.
 6. Where the proposal is to create two or more districts, whether the proposal will be voted on as a single proposition.
 7. Whether the governing board of any new district will have trustee areas and, if so, whether the trustees will be elected by only the voters of that trustee area or by the voters of the entire district.
 8. A description of how the property, obligations, and bonded indebtedness of existing districts will be divided.

9. A description of when the first governing board of any new district will be elected and how the terms of office for each new trustee will be determined.

NOTE: The information to prepare the description of the petition is preexisting (e.g., the petition, the record of action of the county committee). Therefore, the Education Code section 35705.5, subdivision (b) requirement does not include analyzing, researching or determining the information. Therefore, these activities are not eligible for reimbursement.

- C. Post or make the petition description available to the public and to the school district governing boards affected by the petition for inspection at the county office of education or county superintendent's office, to include the nine items in IV.B above, at least 10 days before the public hearing or hearings on the petition. (Ed. Code, § 35705.5 subd. (b).)
- D. Reporting to the State Board of Education on whether any of the following, in the opinion of the county committee on school district reorganization, would be true regarding the proposed reorganization as described in the petition (Ed. Code, § 35707 subd. (a).):
 1. It would adversely affect the school district organization of the county.
 2. It would comply with the provisions of Section 35753, as follows:
 - a. The new districts will be adequate in terms of number of pupils enrolled.
 - b. The districts are each organized on the basis of a substantial community identity.
 - c. The proposal will result in an equitable division of property and facilities of the original district or districts.
 - d. The reorganization of the districts will not promote racial or ethnic discrimination or segregation.
 - e. The proposed reorganization will not result in any substantial increase in costs to the state.
 - f. The proposed reorganization will not significantly disrupt the educational programs in the proposed districts and districts affected by the proposed reorganization and will continue to promote sound education performance in those districts.
 - g. The proposed reorganization will not result in a significant increase in school housing costs.
 - h. The proposed reorganization is not primarily designed to result in a significant increase in property values causing financial advantage to property owners because territory was transferred from one school district to an adjoining district.
 - i. The proposed reorganization will not cause a substantial negative effect on the fiscal management or fiscal status of the proposed district or any existing district affected by the proposed reorganization.

- j. Any other criteria as the board may, by regulation, prescribe.⁶

V. CLAIM PREPARATION AND SUBMISSION

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. Direct costs that are eligible for reimbursement are:

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. Attach a copy of the contract to the claim. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the dates when services were performed and itemize all costs for those services.

4. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time

⁶ [Any regulations adopted to supplement Education Code section 35753, subd. \(a\)\(10\) are not part of these parameters and guidelines. Therefore, any additional activities imposed by such regulations are not reimbursable under these parameters and guidelines.](#)

according to the rules of cost element A.1, Salaries and Benefits, for each applicable reimbursable activity.

B. Indirect Cost Rates

Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs, and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

County offices of education must use the J-580 (or subsequent replacement) nonrestrictive indirect cost rate provisionally approved by the California Department of Education.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter⁷ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING SAVINGS AND REIMBURSEMENTS

Any offsetting savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, including but not limited to, service fees collected, federal funds and other state funds shall be identified and deducted from this claim.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the statute or executive order creating the mandate and the parameters and guidelines adopted by the Commission.

⁷ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

Pursuant to Government Code section 17561, subdivision (d)(1), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (a), and California Code of Regulations, title 2, section 1183.2.